

Message Text

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ACTION L-03

INFO OCT-01 ARA-16 ISO-00 EB-11 COME-00 OPIC-12 H-03

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R 111640Z SEP 73

FM AMEMBASSY PORT AU PRINCE

TO SECSTATE WASHDC 6967

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E.O. 11652: N/A

TAGS: ETRD, EIND, HA

SUBJ: DUPONT CARIBBEAN

REF: PORT AU PRINCE 1468

1. EMBASSY RECEIVED SEPT 6 UNDER COVER OF FON OFF NOTE NO. JUR/E-3:501 SEVERAL DOCUMENTS RELATING TO DUPONT CARIBBEAN INC. (DCI) CASE, INCLUDING UNSIGNED HAND-WRITTEN COPY OF COURT RULING (REFTEL). EMBASSY ALSO OBTAINED SEPT. 10 THROUGH UNOFFICIAL CHANNELS 14-PAGE TYPED DOCUMENT APPARENTLY IDENTICAL TO HAND-WRITTEN RULING. ALTHOUGH DOCUMENT IS UNSIGNED, EMBASSY IS INFORMED THAT IT IS AN EXACT COPY OF THE SIGNED ORDER TO BE SERVED ON DCI. AS OF SEPTEMBER 11, HOWEVER, DCI LAWYER HAD NOT BEEN PROVIDED WITH COURT RULING.

2. EMBASSY POUCHING ARA/CAR TWO COPIES OF TYPED DOCUMENT. MAIN POINTS FOLLOW:

(A) RE COMPETENCE OF HAITIAN COURT, SINCE THE QUESTIONS BEFORE THE COURT DO NOT CONCERN DIFFERENCES IN INTERPRETATION OF THE DCI CONTRACT, BUT ONLY PERFORMANCE OF THE CONTRACT PROVISIONS, HAITIAN COURT RULES IT HAS JURISDICTION IN THE MATTER.

(B) COURT FINDS DCI DID NOT OFFER THE GOH A CHOICE
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BETWEEN A SHARE IN PROFITS AND PAYMENT OF A FIXED SUM,

AS STIPULATED IN ARTICLE 7 OF THE CONCESSION.

(C) DCI FAILED TO SELL STOCK IN THE INTERNATIONAL MARKET, AS STIPULATED IN ARTICLE 7.

(D) THE GOH WAS NEVER ISSUED ITS SHARE OF DCI STOCK, ALTHOUGH THE GOH WAS ONE OF THE ORIGINAL SHAREHOLDERS. FURTHER, DCI DID DISTRIBUTE STOCK TO AN INDIVIDUAL AS COMPENSATION FOR PERSONAL SERVICES RENDERED.

(E) COURT NOTES DCI PRESIDENT PIERSON ISSUED LICENSES FOR BUSINESS ENTERPRISES TO OPERATE ON THE ISLAND OF TORTUGA ON HIS OWN AUTHORITY, DESPITE THE FACT THAT THE DCFPA HAS THE EXCLUSIVE RIGHT TO APPROVE SUCH LICENSES UNDER ARTICLE 6.

(F) SINCE ARTICLES 6 AND 7 OF THE CONCESSIONAL CONTRACT HAVE NOT BEEN EXECUTED, THE COURT ORDERS THE CONTRACT TERMINATED AND THE DEFENDANT FINED IN THE AMOUNT OF COURT COSTS.

3. EMBOFF IS INFORMED THAT DCI ATTORNEY MERCERON HAS ALREADY FILED AN APPEAL, EVEN THROUGH COURT RULING HAS NOT BEEN SERVED OFFICIALLY ON DCI.
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